

## NOISE AND AVIGATION EASEMENT AND COVENANT NOT TO SUE

**WHEREAS**, \_\_\_\_\_, hereinafter called "Grantor," is the owner of that certain property located in Maricopa County, Arizona, legally described in Exhibit "A" attached hereto (the "Property").

WHEREAS, Grantor has been advised and is of the opinion that a portion of the Property is located in a noise-influence area; that these present and future noise influences might be annoying to users of the land for its stated purpose and might interfere with the unrestricted use and enjoyment of the Property in its intended use; that these noise influences might change over time by virtue of greater numbers of aircraft, louder aircraft, seasonal variations, and time-of-day variations; that changes in airport, aircraft, and air traffic control operating procedures or in airport layout could result in increased noise influences; and that Grantor's or the user's own personal perceptions of the noise exposure could change and that his or her sensitivity to aircraft noise could increase;

**NOW, THEREFORE**, for good and valuable consideration, the receipt of which is hereby acknowledged, Grantor does hereby grant and convey a permanent and perpetual noise and avigation easement to the City of Scottsdale ("Grantee"), owner and operator of Scottsdale Airport (the "Airport"), and to Grantee's grantees, lessees, sublessees, permittees, invitees, successors and assigns, for the purpose of the passage of all aircraft (for purposes of this instrument, "aircraft" means any contrivance or device now known or hereafter invented, used or designed to navigate, or fly in, the air) in and through the "Navigable Airspace" (as hereinafter defined) over and above the Property, together with the right to cause in said Navigable Airspace noise, vibration and all other effects that may be caused by the operation of aircraft landing or taking off from, or operated at or on, the Airport.

Grantor, for and on behalf of itself, its successors and assigns, further covenants and agrees that upon the Property no use shall be permitted that causes a discharge into the air of fumes, smoke or dust which will obstruct visibility and adversely affect the operation of aircraft or cause any interference with navigational facilities necessary to aircraft operation.

Grantor, for and on behalf of itself, its successors and assigns, waives, remises and releases any right, claim or cause of action which Grantor has now, or which Grantor may have in the future against, and covenants not to sue, Grantee and/or its past, present, and future officers, officials, directors, employees and agents, and Grantee's grantees, lessees, sublessees, permittees, invitees, successors and assigns, due to such noise, vibration, and other effects that may be caused by the operation of aircraft in and through the Navigable Airspace, and/or landing and taking off from, or operating at or on the Airport, regardless of any future changes in volume or character of aircraft overflights, types of aircraft, changes in airport layout and operating policies, or changes in air traffic control procedures.

Grantor, for and on behalf of itself, its successors and assigns, further acknowledges that the easement, covenant not to sue and other agreements contained herein contemplate and include all existing and future operations at the Airport, so long as the operations are conducted in compliance with the requirements of applicable laws and regulations from time to time; that future aircraft numbers and types will most likely increase and noise patterns may also increase; and that the rights, obligations and covenants herein set forth shall not terminate or vary in the event of changes in the flight volume or noise, traffic patterns, runway length or location, or characteristics or type or category of aircraft using the Airport.

Grantor and Grantee understand and agree that this easement, its covenants and agreements, including all benefits and burdens, run with the land and are binding upon and shall inure to the benefit of their respective successors and assigns.

"Navigable Airspace" means airspace above the minimum altitudes of flight prescribed by regulations under subparts II and III of part A of subtitle VII of title 49 of the United States Code, including airspace needed to ensure safety in the takeoff and landing of aircraft (49 U.S.C. § 40102(a)(30) (as amended)).

\_\_\_\_\_, Grantor

By: \_\_\_\_\_  
Its: \_\_\_\_\_

CITY OF SCOTTSDALE, an Arizona  
municipal corporation

By: \_\_\_\_\_  
Scott T. Gray  
Aviation Director

STATE OF \_\_\_\_\_ )  
 ) ss.  
County of \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2002,  
by \_\_\_\_\_ of \_\_\_\_\_, for and on behalf of Grantor.

\_\_\_\_\_  
Notary Public

My commission expires:

\_\_\_\_\_

STATE OF \_\_\_\_\_ )  
 ) ss.  
County of \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2002,  
by Scott Gray, Airport Director, for and on behalf of City of Scottsdale.

\_\_\_\_\_  
Notary Public

My commission expires:

\_\_\_\_\_

## **INSTRUCTIONS TO COMPLETE AN AVIGATION EASEMENT**

1. Property owner executes the avigation easement and has signature notarized.
2. Attach legal description of property and vicinity map; engineer-stamped if appropriate.
3. Return excuted easement with legal description and vicinity map to airport.
4. Airport executes appropriate signature block and records the easement and pays the recording fee.

**Note:** The County Recorder's office requires documents to have at least a ½ inch border around the document perimeter.

For assistance, please contact Kevin Shirer, Planning & Enviornmental Coordinator 480-312-7609.